Leipsburg January 19th 1801

Sir,

Did not expect an answer to my note, not meaning to draw a person engaged in affairs into a correspondence:

Cum tot suntinias, et suntia negotia———
——— in publica commoda recem

Si longo sermone pro mora———

But it may be useful to you in your present and approaching responsible situation to have hints, or indication of the public mind on occasional subjects. With a view to inform and from a zeal for the credit of your administration I may occasionally communicate such hints as do not reach the gazette or are proper to be inserted in them. A drawback upon me is that I do not write myself, but use an amanuensis. My hand writing is not easily legible, and it cramps my fingers, and hurts my nerves to write. Hence it is that I have avoided all correspondence not absolutely necessary: a loss no doubt in the course of my life, both of
of honor and profit, but it has saved time; I have had leisure to read the more. But am sensible of the want of that communication in actions, or incitement to improvement which communication with philosophic men gives. "As iron sharpeneth iron, so doth the face of a man his friend."

It is with this view, however slight the appearance that I subjoin this note on a hint contained in your letter to me, the opening abyss of a probable suspension of the federal government, from the non-election of a President in the present case of an equality of votes for two persons. In the Capital of this state / Philadelphia / from which I have just returned, and in the Villages of Lancaster, Carlisle &c. the more violent of the ex-federalists protest against an election at all, or declare for Burr as President. The moderate and discerning repudiate both ideas, and say, should such a conduct prevail they will no longer cleave themselves with such federalists. The ex-federal lawyers give as a reason for their declaration, that it will suit the republicans. Some of them have been heard to use the language that they wished to do all the mischief in their power. Thomas Duncan, a lawyer of eminence in the Mid-land Cour...
counties used this language as reported to me by the Governor, and this law character is conceived as the organ of the party.

The more strenuous of the republicans affect to declare themselves for Burr, and tell these ex-federalists, that if Jefferson will ever it will be on the side of moderation, and for their part they will prefer Burr made, perhaps, of sterner stuff, to his long war personal and political at New-York, more habituated to controversy, and if from no other principle, yet to rebut all suspicion of conciliation will act with double rigor, and sweep from office every irregular of the preceding administration.

An idea by the ex-federalists has been thrown out that the present case will come within that section of the Constitution enabling Congress to declare what officers shall act as President in case of the removal of a President, and within a subsequent act of Congress March 1st, 1792, Sec. 9, that in the case of removal "the President of the Senate pro tempore, and in case there shall be no President of the Senate, then the Speaker of the House of Representatives, for the time being shall act as President of the United States" etc. But the term removal carries with it the idea of impeachment, and the expiration...
expiration of the term of Presidency is no removal. But a President pro tempore by the constitution can be chosen only in the absence of the Vice-President, or when he shall exercise the office of President. There will be no absence in this case, or exercise of office of President, and so no President pro tempore can be chosen. But should it have been done, or should it be done the present case is not that of a removal, and there is no room under the act of Congress for the President pro tempore to act. The Constitution supports the construction by Art. 2, Sec. III. stating a removal from office to be on impeachment. But great liberty has been taken with the constitution on what lawyers call a liberal or equitable construction, and a President pro tempore may be made and that officer will be called may reach the Government. It was announced to me on my way at Bedford the residence of the family of Woods into which James Rob has married, that he had married some weeks ago, and was chosen President pro tempore the day of his arrival. At this place Gettysburg, it is understood that letters had arrived from Gen'l Gracey to James Rob, asking him immediate presence with the Senate for the express purpose of being chosen Vice-President, with a view to take upon himself the office of President.
Present on the event of a new election by the Legislature.

In this case, what ought to be the measure with the Republicans? The Governor of Pennsylvania stated to me at his opinion, and of other men of legal knowledge with whom he had conversed, that it was in the power of the two persons equal in votes to settle this among themselves by writing under hand and seal. This would seem to receive countenance from the Act March 13, 1792, Section 11.

"That the only evidence of a refusal to accept of the office of President or Vice-President shall be an instrument in writing declaring the same, and subscribed by the person refusing to accept, and delivered into the office of Secretary of State." It would seem therefore in the power of one to refuse the acceptance of the higher office. But doubtless the section contemplates a refusal to accept after a special designation by election to the particular office. There cannot be a refusal to accept until there is an offer. A majority of nine states can alone offer the Presidency.

It may be said an individual may waive his right of choice where there is equality of votes, under the maxim, Jane pro se introducto quaeque remunerari potest. But this is
is not a right of the individuals exclusive and independent. It is the right of the people to dispose to the office. The proceeding cannot therefore be strictly regular and legally justifiable. It must arise of usurpation, yet well knowing the public must on this subject it would be a safe usurpation and from the completion of the next Congress, there can be no doubt but that the irregularity would be purged by a subsequent choice of President, sanctioning the intermediate acts as necessary and unavoidable to preserve the Government. Ratification is equivalent to original authority. The maxim is, Omnis ratio habito retrostatuae, atque mandato a peritam.

In the case of President pro tempore ascending the Presidency there is a trespass upon substance as well as form. It is without foundation or color of authority and on the succession of the legitimate power of government this officer so called might be liable on a charge of treason; but under the present jurisdiction of the United States the prosecution could not be carried into effect. But in the mean time that
have no manner of doubt before the legitimate power of government could come into exercise the insurgents would fortify themselves by an armed power, and attempt the retaining the sovereignty by force: It would be a fairer opportunity than Cromwell had. An Army under the name of Volunteers consisting of ex-federalists with Alexander Hamilton at their head could get possession of Forts, arsenals, fowls and arms in a short time. I am convinced James Robs has been enough ambitious and want of principle, with a margin of disappointment to attempt this in a moment.

Were I in the place of President designate in my present mind would not hesitate one moment, to announce myself on the fourth day of March next President, and to convene the legitimate authorities instantly to notify that announcement. The consent of the rival candidates if he might be so called, having in the mean time been obtained in writing, and filed in the Secretary's office by analogy to the form of proceeding under the Act of March 1st 1792 in the case of refusal to accept or resignation. In a case of this nature all depends on the
the decision and rapidity of the movement, the herpesion or fortunate boldness of the Greeks, the coup de main of military men.

But we hope better things, and I think the war will treble at the extremes which they meditate. They will dread the opinion of ex-federalists at home, the more wise and moderate whose opinion will begin to reach them. Should they dare the bayonet, or provoke hostilities by their conduct, they will know that valor, virtue and number are against them and they must go down on a contest by arms. I cannot but believe that on the approaching day of election there will not only be nine states, a unanimous vote in favor of Thomas Jefferson President and Aaron Burr Vice-President, but should they elect Burr President, it will give Jefferson afterwards an amendment to the Constitution has in the mean time taken place, or the designation of President and Vice President acclamed by consent of! votes or vote for one or other of the Republican Caucuses in some States or States.
John Israel, printer and editor of the Tree of Liberty at this place informs me that he has occasionally transmitted your line number. The patronage of this paper has drawn upon me personally much abuse, and rebuke in the pro-federal prints. They are aware of the great importance of the post which has been secured, and have felt the effects of it. But the republicans are poor in this extreme of the State and but for considerable pecuniary assistance on my part, it could not have been set upon or supported. The adversary press of John Poole is supported by private contributions from the party, and has the advantage of sub-post from Government by the publication of the law of the United States, an employment which we hope to see soon transferred to the Herald and Free of Liberty.

Having put the Western town so to speak in order as far as can be done by arrangements and support of mine, I mean to withdraw to a more mid-land situation in the State as necessary to the convenient discharge of the duties of the office which should, my being more in the neighborhood of the sea-coast cities, and the seat of
of the federal government which I might sometimes value to visit.

From the trouble I have given in this writing and accept of my gratification on the testimony which America has given of the high respect they entertain for your talents and virtues, and believe me to be an
admirer of your simplicity of manners, your science, political beneficence and services and irreproachable moral character and liberality in religious opinions.

Your Most obedient,

Humble servant,

[Signature]

[Address]
P.S. Writing for Israel's paper with a view to spirit it occasionally while at home. I have been noting down this morning some lines. I will not say dedicated to me by Ayras or any other of the Muses.

"Which nightly me revisits"

Both alike I visited, not altogether in my slumbers, but on my bed in the course of the night, and which entitles

Jefferson

in imitation of Vergil

Pollio

"Sicelio Mure, paulo magna canamus."

Though I finish it, I will send it to the prep and enclose a copy.

I have finished the poem and enclose a copy, though probably it may be extracted and you may see it in other papers.

In the Aurora of January 10th by the Post I observe that the idea which had occurred to me of a sentence of war 1864—A government by a President for ten years, and if it is reversed,

I...

enger it will be restrained. They will not be such fools as to give it up and subject themselves to be called to account for the occupation, at least if the spirit and counsel of James Robs should prevail. I have known him in law practice, capable of every thing short of a falsification of the record and summary of offenses. In contract, his character is that of doing any thing that the rigor of law can screen or support. In his canvassing for the election of Governor, and management of it, saw him capable of every thing from general arrangements in the face of the law to the details of acting on the ground.

It is understood here, that he declares before his departure, that from the letters of Senator Tracy to himself, it was expected that the letter of Lyon, of Vermont could be taken off, and that state gains. That Lyon could be bribed; further, that it was fixed and he was secured in favor of Burr.